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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/053,830 | 01/22/2002 | Heinrich Lang | LMX-69-CON | 6532 |

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| EXAMINER |
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SHAFFER, RICKY D

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| ART UNIT | PAPER NUMBER |
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2872

DATE MAILED: 02/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,830

Applicant(s)

HEINRICH LANG ET AL

Examiner

R. D. SHAFER

Group Art Unit

2872

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 1/22/02

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-17

is/are pending in the application.

Of the above claim(s)

is/are withdrawn from consideration.

☐ Claim(s) is/are allowed.

☐ Claim(s) is/are rejected.

☐ Claim(s) is/are objected to.

☒ Claim(s) 1-17

are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claim 2, drawn to a mirror assembly comprising a support structure, a support arm and locking mechanism with particular support arm details of an adjustment mechanism, classified in class 359, subclass 841.
 - II. Claims 3 and 4, drawn to a mirror assembly comprising a support structure, a support arm, and a locking mechanism with particular support structure details of a clamp receptacle including a clamping wedge, classified in class 359, subclass 871.
 - III. Claims 5 and 6, drawn to a mirror assembly comprising a support structure, a support arm, and a locking mechanism with particular support structure details of a snap-in detent apparatus, classified in class 359, subclass 871.
 - IV. Claims 7-10, drawn to a mirror assembly comprising a support structure, a support arm and a locking mechanism with particular locking mechanism details, classified in class 359, subclass 871.
 - V. Claims 11-17, drawn to a mirror assembly comprising a support structure, a support arm, a locking mechanism and a cover, classified in class 359, subclass 871.
2. Claim 1 link(s) inventions I-V. The restriction requirement among the linked inventions is subject to the nonallowance of the linking claim(s), claim 1. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s)

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will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions V and [(I), (II), (III), (IV)] are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because of the omission of the particular support arm, support structure or locking mechanism details as clearly evidenced by claim 11. The subcombination has separate utility such as a mirror assembly without a cover.

Inventions I, II, III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, each of the inventions I, II, III and IV have separate utility such as a mirror assembly with the separate details of the other invention(s). For example, the

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mirror assembly of group I has separate utility as a mirror assembly without the clamp receptacle including a clamping wedge of group II, the snap-in detent apparatus of group III or the particular locking mechanism details of group IV, and the mirror assembly of group II has separate utility as a mirror assembly without the adjustment mechanism of group I, the snap-in detent apparatus of group III or the particular locking mechanism details of group IV, and ...etc. See MPEP § 806.05(d).

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification above, their recognized divergent subject matter or the search required for one of the inventions I-V is not coextensively required for any of the remaining inventions I-V, as stated below. Therefore, restriction for examination purposes as indicated is proper.

The search required for invention II would further require a search in class 248, subclass 480 which would not be required for inventions I, III and IV.

The search required for invention III would further require a search in class 248, subclass 478 which would not be required for inventions I, II and IV.

The search required for invention IV would further require a search in class 70, subclass 366 which would not be required for inventions I, II and III.

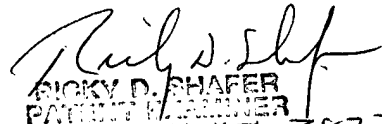
The search required for invention V would further require a search in class 359, subclass 511 which would not be required for inventions I-IV.

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5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R.D. Shafer whose telephone number is (703) 308-4813.

RDS

February 22, 2003


RICKY D. SHAFER
PATENT EXAMINER
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